

### REMARKS

Claims 48-77 have been rejected and remain pending. In addition, claims 48, 58, and 68 have been amended herein to recite that the grape seed and grape skin extracts contain a flavonoid. Support for these amendments can be found throughout Applicant's specification. See, e.g., page 14, lines 31-35. Thus, no new matter has been added.

In light of these amendments and the following remarks, Applicant respectfully requests reconsideration and allowance of claims 48-77.

#### Trademarks

The Examiner stated that the use of trademarks has been noted in the applications. In addition, the Examiner stated that trademarks should be capitalized and accompanied by the generic terminology.

The specification appears to identify trademarks properly with the one exception of the Provex Plus and Provex CV in Figure 7. Applicant notes that these items will be properly designated as Provex Plus™ and Provex CV™ when formal drawings are submitted.

#### Rejections under 35 U.S.C. § 112, first paragraph

The Examiner rejected claims 48-77 under 35 U.S.C. § 112, first paragraph, as containing subject matter not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, the Examiner stated that "Applicants still have not provided information regarding what grape skin/grade seed extracts the claim is referring to and how to go about making such extracts."

Applicant respectfully disagrees. A person having ordinary skill in the art reading Applicant's specification would have been able to make and use the previously claimed invention without undue experimentation.

To further prosecution, however, claims 48, 58, and 68 have been amended herein to require the recited grape seed and grape skin extracts to contain a flavonoid. A person having ordinary skill in the art at the time Applicant filed would have been able to make and use the presently recited supplements without undue experimentation. In fact, a person having ordinary

skill in the art would have been able to make grape seed and grape skin extracts containing flavonoids using routine techniques well known at the time Applicant filed. For example, U.S. Patent No. 5,484,594 discloses making grape seed extracts. A copy of this patent is enclosed with the accompanying Information Disclosure Statement. Likewise, the Revilla *et al.* reference (*J. Agric. Food Chem.*, 46:4592-4597 (1998)), which was provided by the Examiner, cites extraction methods set forth in Bourzeix *et al.* (*Bull. O.I.V.*, 59:1171-1254 (1986)), Hebrero *et al.* (*Am. J. Enol. Vitic.*, 39:227-233 (1988)), and Cacho *et al.* (*Am. J. Enol. Vitic.*, 43:244-248 (1992)). According to Revilla *et al.*, Bourzeix *et al.* developed methods for extracting phenolic compounds from grape skins and grape seeds; Hebrero *et al.* described methods for the anthocyanin extraction from grape skins; and Cacho *et al.* proposed methods for extracting anthocyanins from grape skins. Moreover, as taught in Applicant's specification, a person having ordinary skill in the art would have been able to obtain grape seed and grape skin extracts containing flavonoids by ordering them from common suppliers such Indena, Polyphenolics, InterHealth, Tri-K Industries, Freeman Industries, Weinstein Nutritional, and Brucia Extracts. Thus, Applicant's specification fully enables present claims 48-77.

In light of the above, Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. § 112, first paragraph.

### CONCLUSION

Applicant respectfully submits that claims 48-77 are in condition for allowance, which action is requested. Attached is a marked-up version of the changes being made by the current

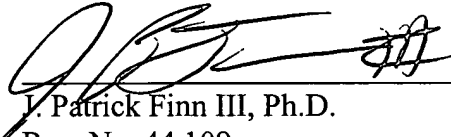
Applicant : Lynn Perkes  
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Page : 5

Attorney's Docket No.: 09143-005001

amendment. Enclosed is a check for the Petition for Extension of Time fee. Please apply any other charges or credits to Deposit Account No. 06-1050.

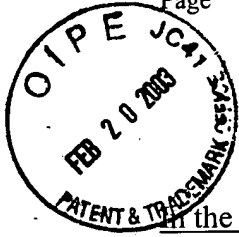
Respectfully submitted,

Date: February 12, 2003

  
J. Patrick Finn III, Ph.D.  
Reg. No. 44,109

Fish & Richardson P.C., P.A.  
60 South Sixth Street  
Suite 3300  
Minneapolis, MN 55402  
Telephone: (612) 335-5070  
Facsimile: (612) 288-9696

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**Version with markings to show changes made**

in the claims:

Claims 48, 58, and 68 have been amended as follows:

48. (Amended Once) A dietary supplement comprising a grape seed extract, a grape skin extract, and at least one enzyme, wherein said grape seed extract comprises 3.3 percent or more of said supplement by weight, and wherein said grape seed extract and said grape skin extract contain a flavonoid.

58. (Amended Once) A dietary supplement comprising a grape seed extract, a grape skin extract, and at least one enzyme, wherein said grape seed extract and said grape skin extract combined comprise 32 percent or more of said supplement by weight, and wherein said grape seed extract and said grape skin extract contain a flavonoid.

68. (Amended Once) A method for providing a mammal with a dietary supplement, said method comprising administering said supplement to said mammal, wherein said supplement comprises a grape seed extract, a grape skin extract, and at least one enzyme, wherein said grape seed extract and said grape skin extract contain a flavonoid, and wherein:

(a) said grape seed extract comprises 3.3 percent or more of said supplement by weight,  
or

(b) said grape seed extract and said grape skin extract combined comprise 32 percent or more of said supplement by weight.